

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance establishing
a moratorium on the
establishment of additional
retail marijuana stores and
marijuana cooperatives,
and declaring an
emergency to exist

_____	Briefing
_____	Proposed Action
_____	Consent
_____	Action
<u>02/03/16</u>	First Reading
<u>02/03/16</u>	Second Reading
<u>02/03/16</u>	Third Reading
<u>02/03/16</u>	Public Hearing

COUNCIL BILL #
Originating Department
Contact Person
Phone Number
FOR AGENDA OF

CB1601-02
Planning
Allan Giffen
(425) 257-8725
February 3, 2016

Initialed by:
Department Head
CAA
Council President



<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
City-wide	Ordinance No. 3443-15	Proposed Ordinance	Planning, Legal

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

In the 2015 legislative session, the State Legislature adopted legislation to combine the medical marijuana and recreational marijuana laws as they relate to retail establishments. As a result of this change, the State Liquor and Cannabis Board is proposing new regulations for retail marijuana stores and marijuana cooperatives, including the number of retail establishments that will be allowed in each city or county. Under the previous recreational marijuana rules, the State authorized up to five retail marijuana stores in Everett. Four stores are currently operating, and a fifth is in the permit process.

The City wants to take a measured approach before allowing any additional retail stores, and proposes a moratorium in order to study the potential effects of merging the medical cannabis and recreational marijuana systems as it relates to new retail stores including marijuana cooperatives in Everett. The moratorium is proposed for one year. The moratorium can be repealed sooner if the City adopts new regulations, or determines that no changes to existing regulations are necessary.

RECOMMENDATION (Exact action requested of Council) Adopt an Ordinance establishing a moratorium on the establishment of additional retail marijuana stores and marijuana cooperatives, and declaring an emergency to exist.

ORDINANCE NO. ____

An Ordinance establishing a moratorium on the establishment of additional retail marijuana stores and marijuana cooperatives, and declaring an emergency to exist

Whereas, the City Council finds the following:

1. State Initiative 502 ("I-502"), approved by Washington voters in November 2012, provides a framework for licensing and regulating the production, processing and retail sale of recreational marijuana.
2. In July 2015, the City adopted land use regulations based on available information at the time in order to provide policy and regulatory guidance and facilitate the review of recreational marijuana license applications within City limits.
3. The State Legislature enacted the Cannabis Patient Protection Act in 2015, establishing regulations for the formerly unregulated medical marijuana system and aligning it with the existing recreational system.
4. In response to changes in state law adopted in the last legislative session, the State Liquor and Cannabis Board has been working through its rulemaking process to establish the administrative procedures and standards for integration of medical marijuana into the existing recreational marijuana marketplace, and, as part of that process, the State is looking to expand the existing cap on retail marijuana stores in Everett at an earlier date than the City anticipated, promulgate other potential rule changes, and establish a new class of use, the marijuana cooperative.
5. The City's existing regulations were adopted in response to I-502 and associated State rules regarding the recreational marijuana marketplace, and were not necessarily designed to address the subsequent changes made by the State regarding medical marijuana, including a potential significant increase in the number of stores allowed at an earlier date than anticipated, and the potential incorporation of new uses.
6. The State is, at this present time, processing applications for retail marijuana uses potentially in excess of the number previously approved, and there are concerns regarding the potential issuance of additional applications under the City's existing regulations.
7. In order to preserve the City's regulatory authority and the validity of its legislative process, it is necessary to put a temporary moratorium on the establishment of new marijuana retail uses and the establishment of marijuana cooperatives until a reevaluation process has been completed.

8. The proposed moratorium ordinance includes a work plan, as provided by RCW 36.70A.390, which allows for a one-year time frame for completion of the evaluation of the need for amendments to the existing recreational marijuana regulations.
9. On February 3, 2016, the City Council held a public hearing and considered this Ordinance. This Ordinance must take effect immediately to prevent the establishment of vested rights that could be incompatible with the plans, policies and regulations ultimately adopted. .

Whereas, the City Council concludes that:

1. The City does have the authority to establish interim regulations in the form of a moratorium; and
2. A moratorium with respect to the establishment of additional marijuana retail uses and marijuana cooperatives will allow the City to review the potential impacts of changes proposed by the Washington State Liquor and Cannabis Board related to integrating the Cannabis Patient Protection Act of 2015 with the recreational marijuana regulations enacted pursuant to Initiative 502.
3. The City must adopt a moratorium prohibiting additional retail marijuana businesses including marijuana cooperatives to: (a) to provide the City an opportunity to study the issues concerning the appropriate zoning or regulation of such businesses and prepare appropriate revisions to the City's regulations; and (b) to avoid these businesses establishing vested rights contrary to and inconsistent with any revision the City may make to its regulatory scheme as a result of the City's study of this matter;
4. RCW 36.70A.390 allows a local government to establish a moratorium to conduct planning studies to determine appropriate land use policies and regulations for areas under its jurisdiction.
5. RCW 36.70A.390 and the City of Everett Charter, Article III, authorize the City Council to enact a moratorium to preserve the integrity of the planning process. As such, an emergency exists and the moratorium must go into effect immediately.
6. The City seeks to establish a moratorium for twelve months to preclude the establishment of vested rights that could be incompatible with the plans, policies, and regulations that the City may adopt as a result of the planning process.
7. The City Council held a public hearing on the Ordinance on February 3, 2016.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: FINDINGS OF FACT. The “WHEREAS” provisions above shall constitute Findings of Fact and are incorporated by reference as if fully set forth herein.

Section 2: MORATORIUM ESTABLISHED. There is hereby declared a moratorium with respect to the establishment of recreational marijuana retail, production and processing uses and marijuana cooperatives. During the one year term of the moratorium, which begins on the effective date of this Ordinance, no application for a business license, or land use or building permit or approval will be accepted, processed or approved by the City. This includes, without limitation, all applications for permits or approvals that may be required by law before any property may be improved, developed, modified, or used, including any application for permit or approval required under EMC Title 15 or other City development regulations for any City land use permit, project permit or other permit. No new development rights shall vest during the term of the moratorium. This moratorium shall not affect existing legally established recreational marijuana retail stores, or any recreational marijuana retail store for which land use approval has been granted by the City as of the date of enactment of this ordinance. The term of the moratorium may be extended in accordance with RCW 36.70.A.390.

Section 3. EFFECTIVE IMMEDIATELY. It is necessary to pass this Ordinance as an emergency to prevent the establishment of vested rights that could be incompatible with the plans, policies, and regulations ultimately adopted by the City as a result of this Ordinance. This Ordinance, as a public emergency ordinance, is necessary for the protection of the public health, safety and welfare, and shall take effect immediately upon its becoming valid by Mayor’s signature in accordance with City of Everett Charter Section 3.4.

Section 4. WORK PLAN. The City shall develop a detailed work plan that shall include, at a minimum, the following:

- a. Evaluation of the changes proposed by the Washington State Liquor and Cannabis Board including the potential for additional marijuana stores and marijuana cooperatives being located in Everett;
- b. Evaluation of any crime-related data pertaining to existing recreational marijuana stores in Everett and other jurisdictions in Washington;
- c. Evaluation of data and information related to societal impacts concerning retail marijuana stores;
- d. Analysis of the number of additional retail stores and marijuana cooperatives that could be located in the City under the existing recreational marijuana land use regulations;
- e. Analysis of the number and location of existing and proposed marijuana retail stores in neighboring jurisdictions;
- f. Evaluation of the need for additional land use or other regulations related to retail marijuana stores and marijuana cooperatives.

Section 5. TERM. This moratorium will end one-year after the effective date of this Ordinance unless earlier repealed or renewed according to law.

Section 6. SEVERABILITY. Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by State or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. CONFLICT. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 8. CORRECTIONS. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 9. GENERAL DUTY. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Section 10. ENFORCEMENT. Violations of this Ordinance are punishable under Everett Municipal Code, Chapters 1.16 and 1.20 and as otherwise provided by law and in Everett Municipal Code 1.20.020, and are subject to injunctive and other forms of relief which the City may seek.

RAY STEPHANSON, MAYOR

ATTEST: _____

CITY CLERK

Passed _____

Valid: _____

Published: _____

Effective Date: February 3, 2016